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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA
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9 In the Matter of the Search of:
10 10792 East Fanfol Lane
11 Scottsdale, Arizona
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No. 06-7142-MB-ECV

ORDER

13 The court has received and reviewed the government's request to unseal what has come
14 to be known as the Novitsky affidavit (the "affidavit"). The affidavit contains names of major
15 league ballplayers and others who Jason Grimsley indicated used performance-enhancing drugs.
16 A redacted version of the affidavit has been filed and available to the public.

17 A previous attempt by the Associated Press to unseal the affidavit was unsuccessful as
18 the court concluded that the investigation was ongoing. The government, however, has now
19 filed a motion asserting that the affidavit no longer needs to be sealed as disclosure will not
20 interfere with an ongoing investigation

21 Because the court is going to release the affidavit, the court is compelled to point out what
22 appears to be an example of abusive reporting.

23 A Los Angeles Times article (the "article") dated October 1, 2006, was headlined:
24 Clemens Is Named In Drug Affidavit.

25 The article trumpets the success of the Times in ending the "months of speculation"
26 surrounding which major league ballplayers Jason Grimsley named as using performance-
27 enhancing drugs.

28 Citing anonymous sources, the article indicated the Times was allowed to see the affidavit

1 briefly, and that portions otherwise redacted, were read aloud.

2 From this, the Times reported that “Roger Clemens . . . is . . . linked to performance-
3 enhancing drugs by [Grimsley].” The Times even provided a quote: “Grimsley told investigators
4 that Clemens used athletic performance-enhancing drugs.”

5 A review of the disclosed affidavit proves that the Times never saw the unredacted
6 affidavit. Roger Clemens is not named in the affidavit and Grimsley makes no reference to
7 Roger Clemens in any context. At best, the article is an example of irresponsible reporting. At
8 worst, the “facts” reported were simply manufactured.¹

9 Unfortunately, the Times article still has legs. As recently as December 13, 2007, an
10 article written by an Associated Press writer states: “The Los Angeles Times reported in 2006
11 that Clemens and Pettitte were among the players former major league pitcher Jason Grimsley
12 accused of using performance-enhancing drugs . . .” Hopefully, any reference to the Times
13 article as authoritative will now cease.

14 Pursuant to the government’s Motion to Unseal the Original Search Warrant Affidavit,
15 and good cause appearing:

16 **IT IS HEREBY ORDERED** unsealing the original search warrant affidavit.

17 DATED this 20th day of December, 2007.

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22 Edward C. Voss
23 United States Magistrate Judge
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27 ¹ This conclusion is almost inescapable. The Times article lists six players purportedly
28 named in the affidavit. Actually, the affidavit names only two of the six and as to Tejada, the
Times quote relates to alleged anabolic steroid use which is incorrect. The reference in the
affidavit is to amphetamine use.